

BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH
MINUTES OF PUBLIC MEETING
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING
August 19, 2014 - 9:00 A.M.

PRESENT: COMMISSIONER GARY J. ANDERSON, CHAIR
COMMISSIONER LARRY A. ELLERTSON, VICE-CHAIR
COMMISSIONER DOUG WITNEY

ALSO PRESENT:

Bryan E. Thompson, Utah County Clerk/Auditor
Burt Harvey, Clerk/Auditor - Tax Admin. Supervisor
Sandy Nielson, Clerk/Auditor's Office - Tax Admin.
Julie Rollins, Utah County Purchasing Agent
Keven Ewell, Utah County Assessor's Office
Jim Stevens, Utah County Assessor's Office
Peter Jepps, Utah County Assessor's Office
Bryce Armstrong, Community Development
Peggy Kelsey, Community Development
Brandon Larsen, Community Development
Robert May, Community Development
Joshua K. Ivie, Community Development
Dr. Joseph K. Miner, Health Department Exec. Director
Jason Garrett, Utah County Health Dept.-Environmental
Bryce C. Larsen, Utah County Health - Environmental
Lana Jensen, Utah County Personnel Director
Jane Ivie, Personnel Office
Jeff Smith, Utah County Recorder
Andrea Allen, Utah County Recorder's Office

Richard Nielson, Utah County Public Works Director
Dalene Higgins, Utah County Sheriff's Office
Darin Durfey, Utah County Sheriff's Office
Jerry Monson, Utah County Sheriff's Office
Susan Morgan, Utah County Sheriff's Office
Gary Ratcliffe, Utah County Surveyor
Dana Barney, Utah County Treasurer's Office
Trent Bristol, Utah Division Forestry, Fire & State Lands
Michelle Carrol, Mountainland Association of Governments
Jessica Delora, Mountainland Association of Governments
Robert Fillerup, Attorney representing Mountain Shores
Lynn Fowers, Fowers Fruit Ranch
Sherryl Fowers, Fowers Fruit Ranch
Peter L. Anderson, Utah County Resident
Sharon P. Anderson, Utah County Resident
Steven Boshard, Utah County Resident
Taylor Eatough, Utah County Resident
Melvin Luthy, Utah County Resident
Eldon A. Neves, Citizens for Rural Utah
Renée Huggins-Caron, Clerk/Auditor Admin. Assist.

Commissioner Anderson called the meeting to order at 9:04 A.M. and welcomed those present. The following matters were discussed:

PRAYER/READING/THOUGHT: Doug Witney, Utah County Commissioner

PLEDGE OF ALLEGIANCE: Larry A. Ellertson, Utah County Commissioner

The Board momentarily recessed to assemble as The Board of Equalization of Utah County from 9:04 A.M. to 9:11 A.M. The Utah County Board of Commissioners reconvened at 9:11 A.M., and the commissioners moved forward with the following agenda items.

PUBLIC HEARING

PUBLIC HEARING TO DISCUSS AMENDING AND INCREASING THE 2014 UTAH COUNTY BUDGET IN THE COUNTY'S GENERAL FUND AND VARIOUS OTHER BUDGETARY FUNDS *(Public Hearing set July 22, 2014) (Continued from the July 29 and August 5, 2014 Commission meetings)*

Utah County Clerk/Auditor Bryan E. Thompson noted the updated schedules for the 2014 Budget. Commissioner Ellertson mentioned ongoing discussions and suggested continuation for one week to finalize details.

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Commissioner Ellertson made the motion to continue the public hearing regarding the 2014 Utah County Budget to the August 26, 2014 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Witney and carried with the following vote:

AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney

NAY: None

CONTINUED TO AUGUST 26, 2014

CONSENT AGENDA

1. RATIFY THE SIGNATURE OF THE COMMISSION CHAIR ON THE ENGAGEMENT LETTER FOR APPRAISAL SERVICES TO VAN DRIMMELEN AND ASSOCIATES FOR APPRAISAL REVIEW SERVICES
2. APPROVE PROPERTY TAX ACTIONS CONTAINED IN RECOMMENDATION LETTER NO. 2014-16
3. ADOPT A RESOLUTION APPROVING VOLUNTEERS WHO WISH TO DONATE THEIR SERVICES TO THE CHILDREN'S JUSTICE CENTER AND THE UTAH COUNTY HEALTH DEPARTMENT

4. APPROVE THE MINUTES OF THE JULY 22, 2014 COMMISSION MEETING

Commissioner Ellertson clarified a section in the minutes.

APPROVED WITH CHANGES

5. RATIFICATION OF WARRANT REGISTER SUMMARY

Register No. 776	August 11, 2014	Check Nos. 197205-197239	Total: \$	48,621.52
Register No. 777	August 11, 2014	Direct Deposit:19972-19982	Total: \$	15,447.91
Register No. 778	August 11, 2014	Check Nos. 197240-197266	Total: \$	39,942.26
Register No. 779	August 11, 2014	Purchasing Cards 2715-2721	Total: \$	10,582.65
Register No. 780	August 11, 2014	Direct Deposit:19983-19996	Total: \$	1,677.33
Register No. 781	August 11, 2014	Check Nos. 197267-197280	Total: \$	1,386.02
Register No. 782	August 12, 2014	Direct Deposit:19997-19998	Total: \$	79,187.89
Register No. 783	August 12, 2014	Check Nos. 197281-197292	Total: \$	162,478.49
Register No. 784	August 12, 2014	Direct Deposit:19999-20017	Total: \$	7,155.93
Register No. 785	August 12, 2014	Check Nos. 197293-197311	Total: \$	5,794.20
Register No. 786	August 12, 2014	Purchasing Cards 2722-2723	Total: \$	141.23
Register No. 787	August 12, 2014	Check Nos. 197312-197325	Total: \$	15,865.47
Register No. 788	August 12, 2014	Purchasing Cards 2724-2725	Total: \$	869.10
Register No. 789	August 12, 2014	Check Nos. 197326-197329	Total: \$	306,356.83
Register No. 790	August 13, 2014	Check Nos. 197330-197881	Total: \$	103,248.00
Register No. 791	August 13, 2014	Direct Deposit:20018-20021	Total: \$	2,721.99
Register No. 792	August 13, 2014	Purchasing Cards 2726-2734	Total: \$	2,992.42
Register No. 793	August 13, 2014	Purchasing Cards 2735-2739	Total: \$	11,544.69
Register No. 794	August 13, 2014	Check Nos. 197882-197897	Total: \$	146,397.48
Register No. 795	August 13, 2014	Direct Deposit:20022-20023	Total: \$	2,665.87
Register No. 796	August 13, 2014	Purchasing Cards 2740-2742	Total: \$	594.97
Register No. 797	August 13, 2014	Check Nos. 197898-197911	Total: \$	8,341.03
Register No. 798	August 14, 2014	Bond Wires:299-300	Total: \$	338.27

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Register No. 799	August 14, 2014	Direct Deposit:20024-20044	Total: \$	7,136.22
Register No. 800	August 14, 2014	Purchasing Cards 2743-2743	Total: \$	29.12
Register No. 801	August 15, 2014	Direct Deposit:20045-20046	Total: \$	4,916.06
Register No. 802	August 15, 2014	Purchasing Cards 2744-2747	Total: \$	478.20
Register No. 803	August 15, 2014	Purchasing Cards 2748-2754	Total: \$	17,598.71
Register No. 804	August 15, 2014	Direct Deposit:20047-20053	Total: \$	21,556.10
Register No. 805	August 15, 2014	Purchasing Cards 2755-2755	Total: \$	39.74
Register No. 806	August 15, 2014	Purchasing Cards 2756-2757	Total: \$	246.77
Register No. 807	August 15, 2014	Direct Deposit:20054-20055	Total: \$	7,246.58
Register No. 808	August 15, 2014	Check Nos. 197912-197968	Total: \$	46,294.45
Register No. 809	August 15, 2014	Check Nos. 197969-198021	Total: \$	376,641.43
Total:				<u>\$1,455,507.93</u>

Consent Agenda Item Nos. 1 through 5 were approved as written. Commissioner Anderson recommended the following Regular Agenda items be moved to Consent:

- 1. DECLARE AS SURPLUS A GLOCK MODEL17, SERIAL NO. WBW803, WITH AN ESTIMATED VALUE OF \$330.00 TO BE PRESENTED TO DEPUTY SUSAN MORGAN FOR SERVING THE UTAH COUNTY SHERIFF'S OFFICE AND CITIZENS OF UTAH COUNTY**
- 3. APPROVE AND ADOPT A RESOLUTION AMENDING AND INCREASING THE 2014 UTAH COUNTY BUDGET IN THE COUNTY'S GENERAL FUND AND VARIOUS OTHER BUDGETARY FUNDS** *(Continued from the July 29 and August 5, 2014 Commission meetings)*

The commissioners requested that Regular Agenda Item No. 3 be continued to the August 26, 2014 meeting of the Board, in correlation with the Public Hearing.

CONTINUED TO AUGUST 26, 2014

- 4. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH AUTOMATED BUSINESS PRODUCTS FOR THE MPC4500 COPIER, SERIAL NO. 24177090-2161239, LOCATED IN THE INFORMATION SYSTEMS DEPARTMENT**
- 7. RATIFY THE SIGNATURE OF THE COMMISSION CHAIR ON THE NON-FOOD VENDOR APPLICATION FOR KOHAR OSHIER OF UTAH COUNTY WIC TO PARTICIPATE IN THE FESTIVAL LATINOAMERICANO** *(Continued from the August 12, 2014 Commission meeting)*
- 9. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN CHANGE ORDER NO. 3 TO AGREEMENT NO. 2011-373 WITH CONDIE CONSTRUCTION IN THE AMOUNT OF \$40,829.93 FOR CONSTRUCTION OF HEADWALL IN SANTAQUIN FOR SUMMIT CREEK HIGH WATER INLET**

The Board suggested this item be stricken from the agenda.

STRICKEN

- 10. APPROVE AND AUTHORIZE THE UTAH COUNTY CLERK/AUDITOR TO SIGN A QUIT CLAIM DEED WITH TERRY S. AND CHRISTI LYNN MILLS IN THE AMOUNT OF \$92,500.00 FOR SURPLUS PROPERTY (SERIAL NO. 14:017:0139) FROM THE NORTH COUNTY BOULEVARD PROJECT**

The commissioners requested Regular Agenda Item No. 10 be continued to the next meeting of the Board.

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11. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE 2013 UTAH COUNTY WILDLAND FIRE EXPENDITURES AND COST SUMMARY FOR THE UTAH DIVISION OF FORESTRY, FIRE AND STATE LANDS**
12. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE SUPPLEMENTAL LAW ENFORCEMENT CONTRACT WITH RACE TRI (JOEL HINKLEY) TRIATHLON, TO HAVE FIVE DEPUTIES FOR TRAFFIC CONTROL AND CROSSING AT NUMEROUS COUNTY AREAS FROM 7:15 A.M. TO 12:50 P.M. ON AUGUST 23, 2014**
13. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE SUPPLEMENTAL LAW ENFORCEMENT CONTRACT WITH THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS CORP OF THE PRESIDING BISHOP FOR FILMING I.T.C., TO HAVE TWO DEPUTIES FOR TRAFFIC CONTROL AT HIGHWAY 92, ONE MILE ABOVE TIBBLE FORK TURNOFF FROM 9:00 A.M. TO 2:00 P.M. ON AUGUST 28, 2014**
14. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MOUNTAINLAND ASSOCIATION OF GOVERNMENTS UTAH COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT AWARD UP TO \$20,000.00 TO COMMUNITY ACTION SERVICES AND FOOD BANK FOR THE FOOD BANK PROJECT**
15. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MOUNTAINLAND ASSOCIATION OF GOVERNMENTS UTAH COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT AWARD UP TO \$10,000.00 TO THE FRIENDS OF UTAH COUNTY CHILDREN'S JUSTICE CENTER FOR CHILD ABUSE TREATMENT**
16. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MOUNTAINLAND ASSOCIATION OF GOVERNMENTS UTAH COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT AWARD UP TO \$15,339.00 TO GOLDEN SPIKE OUTREACH FOR THE GSO-REAP FY14 PROJECT**
17. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MOUNTAINLAND ASSOCIATION OF GOVERNMENTS UTAH COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT AWARD UP TO \$30,000.00 TO MOUNTAINLAND ASSOCIATION OF GOVERNMENTS - DEPARTMENT OF AGING/FAMILY SERVICES FOR A MEALS-ON-WHEELS DELIVERY VEHICLE**
18. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MOUNTAINLAND ASSOCIATION OF GOVERNMENTS UTAH COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT AWARD UP TO \$150,000.00 TO MOUNTAINLAND ASSOCIATION OF GOVERNMENTS FOR THE REVOLVING LOAN FUND PROJECT**
19. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MOUNTAINLAND ASSOCIATION OF GOVERNMENTS UTAH COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT AWARD UP TO \$100,000.00 TO THE RURAL HOUSING DEVELOPMENT CORPORATION, DBA SELF-HELP HOMES FOR THE ELK RIDGE PARK PROJECT**
20. **ADOPT A RESOLUTION OF APPOINTMENT OF MIKE FORSHEE AS AN ALTERNATE MEMBER TO THE UTAH VALLEY DISPATCH SPECIAL SERVICE DISTRICT ADMINISTRATIVE CONTROL BOARD**

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ACTIONS TAKEN

Consent Agenda Item Nos. 1 and 5 were **ratified**; Nos. **2 and 4** were **approved**; and No. **3** was **adopted**. **Regular Agenda Item No. 1** was **declared** as surplus; Nos. **3 and 10** were **continued** to the August 26, 2014 meeting of the Board; Nos. **4, and 11 through 19**, were **approved and authorized**; No. **9** was **stricken** from the agenda; and No. **20** was **adopted**.

AGREEMENT NOS.: 2014-548, 2014-549, 2014-550, 2014-551, 2014-552, 2014-553, 2014-554, 2014-555, 2014-556, 2014-557, 2014-558, 2014-559, 2014-560, 2014-561 and 2014-562

RESOLUTION NOS.: 2014-89 and 2014-90

REGULAR AGENDA

2. ADOPT A RESOLUTION AWARDING COUNTY PERSONAL PROPERTY AS A GIFT IN RECOGNITION OF MERITORIOUS SERVICE TO UTAH COUNTY FOR DEPUTY SUSAN MORGAN

Commissioner Anderson welcomed Deputy Susan Morgan of the Utah County Sheriff's Office. Deputy Morgan stepped forward with her husband, Lieutenant Mike Morgan, and detailed the involvement of herself and her family in law enforcement throughout the past twenty-four years. Captain Jerry Monson commended Deputy Morgan's service to the community and the Board thanked her for her dedication.

Commissioner Witney made the motion to adopt the resolution awarding County personal property as a gift in recognition of meritorious service to Utah County for Deputy Susan Morgan as specified in Regular Agenda Item No. 2. The motion was seconded by Commissioner Ellertson and carried with the following vote:

AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None

RESOLUTION NO. 2014-91

5. ADOPT (OR DENY) AN ORDINANCE TO AMEND THE UTAH COUNTY LAND USE ORDINANCE, SECTION 3-20 AND SUBSECTIONS 6-3-C & D, RELATIVE TO WATER QUALITY FOR WATER SOURCES FOR LOTS AND PARCELS OF LAND *(Continued from the August 5, 2014 Commission meeting)*

Brandon Larsen of the Utah County Community Development Office approached the bench. Commissioner Witney mentioned a disparity between the Planning Commission minutes and the staff recommendation for this proposed land use ordinance relative to water quality, and Mr. Larsen explained that a compromise had been reached on July 15, 2014; that arrangement has now been called into question. The Utah County Health Department has raised some concerns, including the penalties in place for violations of the ordinance. Zoning violations can take years to resolve if the matter is taken to court.

Utah County Planning Commission member Eldon A. Neves came forward to state government does not need to interfere with wells. People are sensible enough to determine whether or not their water is safe to drink. Mr. Neves also pointed out the faultiness of the proposed ordinance: a well house is needed in order to test the safety of the water, but the well house cannot be constructed until it has been proven that the water is safe.

Brandon Larsen clarified how treatment of water would be allowed if arsenic is between ten and twenty parts per billion, and only if all other quality factors are met at the source. The building code states that potable water must exist before entry into the home, so the ordinance has been tailored to allow filtration systems outside of the dwelling. Mr. Larsen

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agreed with Commissioner Anderson's comment on the onerous process. Bryce Armstrong of the Utah County Community Development Office added that current ordinance requires water quality testing before treatment; this amendment would allow treatment before testing.

Brandon Larsen pointed out that the Community Development staff has identified problems related to water treatment in connection with a dwelling. A dwelling could house a pre-school or day care facility for young children, or be rented to unsuspecting people who are now in danger of drinking untreated water.

Commissioner Anderson summarized the intent of the ordinance amendment: wells must meet water quality standards, and this ordinance is to define those standards and when they are tested. Bryce Armstrong confirmed, and invited Utah County Health Department representatives forward to state their concerns. Executive Director Dr. Joseph K. Miner approached the bench with Jason Garrett to question how testing will be monitored over extended periods of time under this new ordinance. Reports are supposed to be submitted every three years, but the situation is not closely policed. Mr. Garrett commented on the fluctuation of water tables and mineral concentration. He reiterated Brandon Larsen's concerns of people drinking untreated water, adding that a dwelling can be a single-residence home, or food services, or rehabilitation center. There are many possibilities, and the primary concern is to protect the citizens.

When Jason Garrett brought up responsibility, Commissioner Anderson referred to the recent landslide in North Salt Lake on August 5, 2014 to question who is accountable for what. Mr. Garrett mentioned pressure from the United States Environmental Protection Agency (EPA) to require registration for any water filtration and treatment systems; this would be very onerous for the property owner. They discussed the current requirements for well water, and Mr. Garrett suggested amending the ordinance so that certain businesses cannot be run from dwellings that require treatment.

Utah County resident Melvin Luthy came forward to speak about the imposition of excessive regulations and the lack of personal responsibility. He suggested that water treatment be a condition of occupancy rather than construction. Mr. Luthy questioned why treatment must occur outside of the home when private companies can accommodate all sorts of structures. He also expressed that testing every three years is unnecessary.

Utah County Health Department Executive Director Dr. Joseph K. Miner noted that the three-year testing period is a national practice and used only for systems that were previously reported as not meeting water standards. He and Bryce Armstrong continued discussion with the Board, and Commissioner Witney suggested tabling any decision on the ordinance until the Utah County Planning Commission has further reviewed the proposal. Mr. Armstrong and Brandon Larsen detailed the measures taken to notify any property owners of water issues, and noted for the record that this has been discussed at length with the state.

Commissioner Witney made the motion to continue Regular Agenda Item No. 5 regarding the ordinance relative to water quality for water sources to a future meeting of the Utah County Board of Commissioners, on a date yet to be determined. The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

CONTINUED WITHOUT DATE

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6. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE “COMPLIANCE AGREEMENT AND BOND FOR OPEN PIT MINING OPERATIONS” FOR CONTINUATION OF AN EXISTING MINING OPERATION WITH NEW OPERATOR FOR MOUNTAIN SHORES DEVELOPMENT (AKA FAIRBOURN PIT) WITH A SITE LOCATION OF APPROXIMATELY 7605 SLINCOLN BEACH RD., WEST SIDE OF WEST MOUNTAIN AREA OF UNINCORPORATED UTAH COUNTY; SURETY BOND NO. 1106221 IN THE AMOUNT OF \$19,419.50 WITH GCNA, ONE TOWNE SQUARE, #1470, SOUTHFIELD, MI 48076** *(Continued from the August 5 and August 12, 2014 Commission meetings)*

Peggy Kelsey of the Utah County Community Development Office summarized this agreement is for a mining operation commonly referred to as the ‘Fairbourn Pit.’ The application has been reviewed by county staff and seems to be in compliance with current county code. Commissioner Anderson acknowledged there have been many meetings regarding this issue, and invited all sides to speak their piece today so that a decision can be made.

Lynn Fowers came forward with his wife, Sherryl Fowers. Mr. Fowers explained they own an orchard located half a mile from the mining operation. He stated that agriculture in Utah County should supercede gravel pits. Mr. Fowers requested that the county guarantee compensation for any damage from the gravel pit if the Board votes to allow it, and for he and his wife to be the parties determining the amount of said damage. When Mr. Fowers suggested that the pit be required to run water 24-hours a day to minimize dust, Peggy Kelsey corrected that the operation of this pit would fall within the same permit as the previous construction, which did not require 24-hour water - only that the dust be controlled. Mr. Fowers stated the situation with damages to his orchard from the previous operation has still not been completely resolved and questioned how the county could consider a new one. Utah County Public Works Director Richard Nielson mentioned that reclamation on the previous pit is approximately ninety percent completed.

Sherryl Fowers mentioned a visit from Horticulturist and author Dr. Earl Seeley, who determined rainfall and the precipitation received on the west side of West Mountain this water year (beginning October 1st) has only been three inches; there is currently no humidity in the ground. Ms. Fowers also brought up restrictions due to the U.S. Food Safety Modernization Act and the impact on her orchard. She talked about road and dust problems, winds, and the importance of maintaining the beauty of agriculture in the area. Ms. Fowers asked that the trucks be washed down before leaving the gravel pits, and Commissioner Anderson asked if that can be a requirement by the county; Peggy Kelsey reviewed the ordinance book.

Commissioner Witney asked whether the Fowers Fruit Ranch has had dust problems while the pit was not in operation. Sherryl Fowers responded that they are monitoring the situation, and there has not been a flare-up of mites for the first time in many years. The roads have been covered with gravel and green vegetation has been planted to help combat the issues. Ms. Fowers suggested that the county review mining, grazing, and agricultural zones in relation to the Food Safety Modernization Act, indicating that they may no longer be able to co-exist in certain areas.

Commissioner Witney reminded Sherryl Fowers that Dr. Earl Seeley had made statements about dust being eliminated or greatly reduced if the mines are operated within policy. Ms. Fowers expressed she is still concerned because those guidelines seem optional. When Commissioner Witney noted that the permit is already active, Ms. Fowers questioned why Mountain Shores is allowed a new pit with a new operator. She asked what will happen when Dana Beck has left the partnership - does the next big gravel operator come in? Her final comment was that there are enough gravel pits in Utah County; no more are needed.

Burt Ringwood came forward, and Commissioner Anderson noted that the county had received a demand letter from him. Mr. Ringwood stated that the pit has already been permitted and questioned why the Board is discussing zoning changes rather than the matter at hand: the compliance agreement. He referenced an earlier comment by Commissioner Anderson, mentioning everyone cannot be protected from everything. Mr. Ringwood expressed that if rules are broken, they can be addressed at that time - the zoning issue is not what is before the Board today.

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Dana Beck is the proposed pit operator. He described himself as an agricultural person, and expressed appreciation for the Fowers and other farm workers. Mr. Beck said he is committed to working with everyone. A dust-free zone cannot be promised; 150 acres were ripped up by the previous operator and Mr. Beck is only working with five acres. He explained that he is a very different operation from Ames Construction, and asked that he not be punished for someone else's crime. Mr. Beck mentioned being monitored at many different levels, including the Utah State Division of Air Quality. Commissioner Anderson pointed out that Mr. Beck is not the issue - the Board knows he will do his best to accommodate all parties. Commissioner Ellertson added there are ordinances to ensure good practices, but the concern is for the amount of time for action to be taken should those measures fail. When Commissioner Ellertson asked Mr. Beck's intent if damages are caused by the operation, Mr. Beck pointed out the responsibility of the county. They discussed accountability and Commissioner Anderson repeated that this is not a personal attack against Mr. Beck.

Utah County resident Eldon A. Neves commented on the traffic caused by mining operations. He does not own an orchard but is concerned about the trucks going back and forth, ruining the roads and being a nuisance in the area. Mr. Neves was never able to make contact with the previous operators to express his concerns. The roads are not designed for this type of heavy use. Mr. Neves suggested different routes and travel times, and Commissioner Witney pointed out that Dana Beck had previously committed to working only between 7:30 AM and 4:30 PM.

Utah County Deputy Attorney David Shawcroft stepped forward to answer any questions. He reiterated that the application does meet ordinance requirements, and dust control is the responsibility of the pit owner. Mr. Shawcroft also noted that the Utah County Community Development Office did not receive any complaints during the previous operation. That is not to say that there were no issues, but perhaps they were resolved internally. He and Commissioner Anderson discussed water requirements.

Commissioner Ellertson asked about the timing in addressing a complaint. If a call is placed to the Community Development Office, Peggy Kelsey would attempt to contact the operator that same day. Ideally the operator would take immediate action, such as Dana Beck's earlier comment about getting into a truck to water right away. If the operator does not comply, a demand letter would be sent to the owners. At that point it could be deferred to legal action through the courts and become a cumbersome and time-consuming process.

Commissioner Anderson asked whether the Board is legally bound to approve this compliance agreement and bond for open pit mining operations. David Shawcroft quoted Utah Code 17-27a-508(1)(a)(ii):

“....an applicant is entitled to approval of a land use application if the application conforms to the requirements of the county's land use maps, zoning map, and applicable land use ordinance in effect when a complete application is submitted and all application fees have been paid, unless:
(A) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application....”

Mr. Shawcroft summarized that the county is not currently aware of any facts that would jeopardize public interest. Commissioners Ellertson and Anderson asked about compliance and future action, and Mr. Shawcroft provided examples of previous and potential cases. Commissioner Ellertson asked about future operators if Dana Beck leaves the pit, and Mr. Shawcroft explained that the new operator would have to go through the same process. Mr. Shawcroft mentioned nuisance enforcement laws.

Lynn Fowers returned to ask if the cyclists, fishermen, boaters, and other users of the road would quantify a countervailing public interest as defined by state code. David Shawcroft noted that the road has been reviewed by the Utah County Public Works Department, and does meet the American Association of State Highway and Transportation Officials (AASHTO) standards.

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Commissioner Witney thanked everyone for their civil participation in this discussion. He noted that three county departments have been involved in reviewing the application: Community Development, Public Works, and the Attorney's Office. Four departments can be counted if the Commission Office is included in that list. Commissioner Witney stated Dana Beck fully intends to comply; if he does not, the Board can address it at that time.

Commissioner Ellertson and Utah County Public Works Director Richard Nielson engaged in a conversation regarding transportation, traffic laws, and road courtesy. Commissioner Anderson commented on the previous operation; at the time the area was re-zoned from RA-5 to 'Mining and Grazing,' the county was building a freeway and we needed the gravel. If the Board were to make that decision again, they would consider other options. Commissioner Anderson explained that once the gravel for the freeway had been mined, his intent was to create an ordinance wherein that pit would never be opened again. He mentioned that the county paid for the road to be repaired and the responsibility for that bill is still under dispute. Commissioner Anderson noted the ordinance was supposed to prevent this exact situation from occurring, to the point where residents were told they would not have to worry about gravel trucks ever again.

Commissioner Anderson stated his concerns are two-fold: safety and agriculture. He expressed dismay that after measures were taken to prevent it, the county is in the exact same situation again; the Board has been told by the Community Development Office, the Attorney's Office, and the Public Works Department that they must follow through with this compliance agreement and bond for open pit mining operations. Commissioner Anderson reiterated his frustration and apologized to the Fowers, the McMullins [McMullin Orchards, Inc.], agricultural proponents, and the general public, stating their local government has let them down.

Commissioner Witney noted that he agrees with some of Commissioner Anderson's comments, but not all of them. Commissioner Ellertson added that he would reluctantly second the motion for approval.

Commissioner Witney made the motion to approve and authorize the 'Compliance Agreement and Bond for Open Pit Mining Operations' for continuation of an existing mining operation with new operator for Mountain Shores Development (a.k.a. Fairbourn Pit) as detailed in Regular Agenda Item No. 6. The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Doug Witney
Larry A. Ellertson
NAY: Gary J. Anderson**

AGREEMENT NO. 2014-563

8. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH THE UTAH DEPARTMENT OF HEALTH FOR THE MATERNAL AND CHILD HEALTH BLOCK GRANT AND THE PRENATAL-TO-FIVE HOME VISITATION PROGRAM FUNDING

Utah County Clerk/Auditor Bryan E. Thompson confirmed for Commissioner Ellertson that this agreement is a renewal.

Commissioner Ellertson made the motion to approve and authorize an agreement with the Utah Department of Health for the Maternal and Child Health Block Grant and the Prenatal-to-Five Home Visitation Program Funding as outlined in Regular Agenda Item No. 8. The motion was seconded by Commissioner Witney and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

AGREEMENT NO. 2014-564

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At this point, the commissioners determined which closed meetings would be necessary to set and which could be stricken from the Regular Agenda.

23. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY
STRICKEN

25. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS COMMERCIAL INFORMATION AS DEFINED IN SECTION 59-1-404, U.C.A., AS AMENDED
STRICKEN

Commissioner Witney made the motion to strike Regular Agenda Item Nos. 23 and 25 to set dates, times and locations for closed meetings for a strategy session to discuss the purchase, exchange, or lease of real property; and to discuss commercial information as defined in Section 59-1-404, U.C.A., as amended. The motion was seconded by Commissioner Ellertson and carried with the following vote:

AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None

21. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL OR INDIVIDUALS

Commissioner Witney made the motion to set a date, time and location for a closed meeting to discuss the character, professional competence, or physical or mental health of an individual or individuals to immediately follow the public comment portion of the regular public meeting today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Ellertson and carried with the following vote:

AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None

SET

22. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS PENDING OR REASONABLY IMMINENT LITIGATION

Commissioner Witney made the motion to set a date, time and location for a closed meeting for a strategy session to discuss pending or reasonably imminent litigation to immediately follow the previously scheduled closed meeting today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Ellertson and carried with the following vote:

AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None

SET

24. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE SALE OF REAL PROPERTY

Commissioner Witney made the motion to set a date, time and location for a closed meeting for a strategy session to discuss the sale of real property to immediately follow the previously scheduled closed meetings today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

SET

WORK SESSION

NO WORK SESSION ITEMS WERE SUBMITTED

PUBLIC COMMENTS

Utah County resident Peter Anderson addressed the arsenic discussed in Regular Agenda Item No. 5. Mr. Anderson lived in a desert area where the arsenic found in the water was consistently ten parts per billion over the recommended amount. He noted that while there was much paranoia over that small number, his children are now sixty years old and have never had cavities; he joked that they can bite through bullets. Mr. Anderson pointed out that Swiss mountain climbers take small doses of arsenic to fortify themselves. He expressed that many guidelines from the U.S. Environmental Protection Agency (EPA) can be considered "arbitrary and capricious," to borrow a term used earlier in the session. Mr. Anderson noted that the standards are constantly changing so there is no way to determine what is accurate; he thinks it is an infringement upon property rights to regulate every portion of every citizen's life. The EPA has become nothing more than a tool to push the United Nations' *Agenda 21* publication. Mr. Anderson's final comment was '20 parts per billion is harmless.'

Utah County resident Sharon Anderson came forward and referred to her comments from the end of the August 5, 2014 Commission meeting related to the Bus Rapid Transit (BRT) project. Ms. Anderson hopes that the county does not bond for BRT, a cost of between \$65,000,000 and \$83,000,000 which would be reimbursed by the Utah Transit Authority (UTA). She talked about the variations in expected costs, and presented a map that showed current bus Route #830 stops compared to the proposed BRT stations.

This concluded the public comment portion of the open meeting, and the meeting recessed at 10:59 A.M. to go into closed meetings. The public meeting reconvened at 11:33 A.M.

Commissioner Witney made the motion to adjourn the August 19, 2014 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

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There being no further business nor public comment, the meeting adjourned at 11:33 A.M. The minutes of the August 19, 2014 Commission Meeting were approved as transcribed on September 9, 2014.

GARY J. ANDERSON, Commission Chair

ATTEST:

BRYAN E. THOMPSON
Utah County Clerk/Auditor